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Situation of human rights in Afghanistan

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly a brief interim report on the situation of human rights in Afghanistan prepared by Mr. Kamal Hossain, Special Rapporteur of the Commission on Human Rights, in accordance with Commission on Human Rights resolution 1999/9 of 23 April 1999 and Economic and Social Council decision 1999/241 of 27 July 1999.

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Interim report on the situation of human rights in Afghanistan, prepared by the Special Rapporteur of the Commission on Human Rights

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I. Introduction

1. This is the second report of the Special Rapporteur. After presenting the first report (E/CN.4/1999/40) to the Commission on Human Rights at its fifty-fifth session in March 1999, he visited Quetta and Kandahar in May 1999 and Islamabad and Kabul from 8 to 13 September 1999.

2. The Special Rapporteur's first visit to Kabul (March 1999) had coincided with the initiation of talks in Ashkabad on 14 March 1999, involving the efforts of the Special Envoy of the Secretary-General for Afghanistan, to explore the prospects of peace. The aim of these talks was to negotiate an agreement leading to the establishment of a broad-based representative Government in Afghanistan. This had prompted the Special Rapporteur to describe that situation as one which presented a challenge and an opportunity. He had urged that only through a human rights-focused process of peace-building could meaningful steps be taken to improve the overall human rights situation.

3. The Special Rapporteur, drawing upon earlier reports of special rapporteurs and his own observations, had pointed out in his first report that the people of Afghanistan continued to be victims of gross violations of human rights and persistent breaches of international humanitarian law. The basic cause of this was that the people of Afghanistan continued to be virtual hostages in their own land, where externally armed forces seek to rule Afghanistan without the effective participation or consent of the people. The most fundamental denial of human rights which needed to be addressed was that of the right of the people of Afghanistan effectively to participate in the governance of their country through freely chosen representatives. This is the right recognized in article 21 of the Universal Declaration of Human Rights, namely that "the will of the people shall be the basis of the authority of government" and that "this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage, and shall be held by secret voting or equivalent free voting procedures", and elaborated in article 26 of the International Covenant on Civil and Political Rights.

4. The critical importance was underscored of initiating a process of transition from the present rule by armed groups (externally supported) to a broad-based representative Government which enjoyed the confidence of all segments of the Afghan population including a significant proportion of 3 to 4 million Afghan refugees forced to live outside Afghanistan.

5. This report has to record a sense of mounting concern resulting from the failure to achieve progress at the meeting of the "six plus two" informal group held in Tashkent from 17 to 21 July 1999, which was attended by the Secretary-General's Special Envoy. The Taliban movement and the United Front (UF) had joined the six plus two meeting for the first time. The Taliban and the UF were engaged in separate talks with the other delegations. The Secretary-General's Special Envoy had reiterated to the Taliban leaders the necessity of direct negotiations with the UF starting from the issues of ceasefire and exchange of prisoners. He had also urged the Taliban to talk to the Governments of the Islamic Republic of Iran and the United States to solve their problems with those countries. While the participants at the Ashkabad talks had indicated a willingness in principle to explore the establishment of a shared Government, no progress was registered with regard to that issue. The more limited aim of ceasefire was not achieved, as is evident from the resumption of conflict with the launching of a major offensive by the Taliban on 27 July 1999 across the Shamali valley north of Kabul, with fighting extending into the provinces of Parwan, Kapisa and Kunduz.

6. This offensive followed upon the earlier resumption of conflict in May 1999 in the central highlands, including Bamyan, which resulted in the serious human rights violations described in part II below.

II. Resumption of conflict in Bamyan and the central highlands (April/May 1999) and aftermath

A. Background

7. Bamyan, located in the central highlands of Afghanistan called Hazarajat, is populated mostly by Hazaras. Bamyan city was the stronghold of Hezb-e-Wahdat up to September 1998. On 13 September Hezb-e-Wahdat forces, after losing Mazar city, were defeated by the Taliban. It was reported that while leaving the city Hezb-e-Wahdat forces killed 30 Taliban prisoners who were being held in Bamyan prison. Reports further indicated that during its rule of Hazarajat, and particularly in Bamyan, Hezb-e-Wahdat failed to maintain law and order and the behaviour of its forces towards Tajiks living in Bamyan centre, Kohmand and Saighan districts led hundreds of Tajiks to leave Bamyan during 1996 and 1997.

8. The Taliban entered Bamyan city for the first time on 13 September 1998 after a short period of fighting in Aghrubut pass. From 15 to 17 September, the Taliban launched a search in Bamyan villages for "suspected

people". During the search they reportedly arrested male Hazaras over the age of 13. The arrested people were taken to the desert and, reportedly, a number of them were summarily executed. Sarasiab, Haiderabad and Syedabad villages were among the villages which suffered the most.

9. It was reported that dead bodies were scattered everywhere. Five bodies were found in Azhdar, three were behind the guardroom of Bamyan airport and several bodies were found among trees behind New Bazaar. Many of those killed were from among the displaced families who were living around the Buddha statues but had fled to nearby villages after the capture of Bamyan city.

10. When the snow began to melt in the spring, Hezb-e-Wahdat forces returned from their mountain refuge and captured Yakowlang in Bamyan province. The Taliban became suspicious about the affiliation of the Bamyan people with the opposition forces. They reportedly took around 550 people as hostages and transferred them to different prisons in Parwan, Kabul city and Kandahar. Among the arrested people were members of a council which had been formed by the Taliban itself, namely Sayed Adil Kazimi Paykar from Fatmasti, Natiqi from Kushak, Shaikh Emami from Surmara and Shaikh Zaki from Kalu. On 28 March 1999, in reaction to an uprising by the local population, Taliban forces led by Mullah Abdul Wahid Ghourbandi reportedly destroyed and burned houses in the villages located on the road between Shiber and Bamyan city, including Shashpul and Ahangeron. They also burned houses in Surkh Qul and other villages located in the Kalu valley. People living in those villages were forcibly evacuated. Two *takyakhanas* (mosques) in Sarasiab and Gurvana villages were also reportedly burned.

B. Human rights violations by Hezb-e-Wahdat

11. Hezb-e-Wahdat forces secured control of Bamyan for three weeks. It was reported that during that time they arrested 11 drivers and 25 passengers in vehicles passing through Bamyan on the road from Behsood, because of their ethnicity. The captives were released by the Taliban on 9 May when they recaptured Bamyan.

C. Human rights violations by the Taliban

12. The retaking of Bamyan by the opposition had been considered a big setback by the Taliban. The Taliban massed 4,000 troops to recapture Bamyan. The operation was led by high-ranking commanders of the Taliban, including Maulavi Abdul Kabir, deputy to the acting Shura, Mullah Akhund, head of the East-West zone, Mullah Fazal Akhund, chief of the military corps, and Mullah Abdul Wahid Ghorbandi, a frontline commander.

13. The Taliban retook Bamyan on 9 May 1999. Upon their entering Bamyan city, there were reports of summary executions. Most of the population evacuated the city and took refuge in the mountains. They were facing a serious situation given the weather in the cold mountainous areas and the acute shortage of food. It was reported that a group of 150 people, including women and children, were taken captive by the Taliban from Berson village and transferred to Parwan province.

14. Yakawlang was also evacuated by people who feared being killed or arrested by the Taliban. A few families managed to reach Ghazni while others went to Panjab or Bahsood districts.

D. Visit by the Special Rapporteur

15. Following the receipt of allegations of serious human rights violations being committed in the central highlands of Afghanistan, particularly in Bamyan, the Special Rapporteur decided to seek first-hand information. He interviewed newly arrived refugees from Hazarajat. The violations of human rights which were reported to him by credible eyewitnesses included forced displacement of the civilian population; deliberate burning of houses; summary executions of non-combatants, including women and children; arbitrary detentions; and forced labour. All of these practices constitute grave human rights violations. The actions, reportedly carried out by Taliban forces who were engaged in military operations, ran directly counter to assurances publicly given by the Taliban leadership with regard to the rights of the civilian population. Some of the Taliban field commanders were specifically named in the reports of violations, including Abdul Wahid Ghorbandi.

16. The Special Rapporteur travelled to Kandahar and met Mawlavi Wakeel Ahmed Mutawakil, Special Adviser to the Taliban leadership, in order to review with him the above information which was recorded in an aide-mémoire delivered to him personally by the Special Rapporteur on 23 May 1999 with the request that action be taken to halt the pattern of violations described therein. In the aide-mémoire, the following specific actions were requested to be taken in order to prevent further violations and to protect and reassure the civilian population affected:

(a) To issue instructions to local Taliban commanders to refrain from further violations of the rights of civilians, specifically to cease summary executions, targeting of non-combatants, violence against women and children, arbitrary detention and destruction or confiscation of property;

(b) Urgently to release civilians who had been arbitrarily detained or held in forced labour camps, investigate violations committed by all parties to the conflict and prosecute those guilty of violations;

(c) To facilitate access for the Special Rapporteur and United Nations and associated personnel to the areas concerned in Bamyan province and neighbouring areas, so that they could assess the human rights situation and take measures to help remedy the situation;

(d) To assure freedom of movement within the country and protection from harassment for civilians, including returnees and displaced persons, irrespective of their place of origin and ethnicity;

(e) To guarantee full, unfettered access for humanitarian agencies so that they could respond to the significant humanitarian needs in the area that have arisen as a result of the conflict. This humanitarian intervention should include facilitating the return of people displaced by the conflict.

17. Letters were addressed by the Special Rapporteur to Mawlawi Wakeel Ahmed Mutawakil seeking information on the action taken on the above requests. In the only response received, reference was made to a special decree of Mullah Omar in which he had appealed to people to avoid actions by way of revenge following the recapture of Bamyan, it being suggested in the letter that such burning of houses as had taken place was done by people seeking revenge. No information was provided regarding Dr. Ayub, medical superintendent of the Shuhada hospital in Jaghoray, who had reportedly been abducted. It was in the course of his mission in September 1999 that the Special Rapporteur learned that Dr. Ayub was being held in detention in Kandahar.

18. The text of the aide-mémoire of 23 May 1999 and the letter dated 8 June 1999 received in response as well as the letters of the Special Rapporteur dated 10 June 1999, 12 July 1999 and 14 August 1999, are contained in appendix I to the present report.

E. Aftermath of the recapture of Bamyan by the Taliban

19. It had been reported that there was a steady exodus of the civilian population from Bamyan from February to mid-April 1999 and that the civilian population had been almost totally displaced from the area by the end of the conflict there in mid-May. By the beginning of August, 66 per cent of the population, including both major ethnic groups, the Hazaras and the Tajiks, were said to have returned to Bamyan. The reasons cited for the failure of others to return were lack of money for travel expenses, destruction of houses and lack of food. It had been reported that 361 infants and 138 adults had been killed by cold and hunger during the spring displacement. There were also reports of widespread summary executions (at least 40) and arbitrary arrests during the most recent conflict. Numerous persons are believed to have been taken prisoner or hostage.

20. The most vulnerable people in Bamyan are widows, present in 15 per cent of all households. It is estimated that 305 women were widowed during the recent conflict, in addition to the 1,391 widows living in Bamyan before.

21. It has been alleged that there has been systematic destruction of the housing stock and that 15 per cent of houses in Bamyan have been totally destroyed while another 21 per cent have been partially destroyed. The inhabitants of Bamyan have reportedly lost two thirds of their most important assets during the conflict such as livestock (66 per cent of all cows were lost), household goods and commercial vehicles and that shops have been sold, looted or destroyed.

22. The inability to undertake spring planting and carry out irrigation has resulted in major losses in agriculture, with the accompanying reduction in food production, employment and income. Food stocks are said to be close to zero and reserves have been stolen or exhausted. Verification of these reports requires access to the area, which has been requested by the Special Rapporteur but is still awaited.

III. Resumption of the wider conflict (July 1999)

23. The meeting of the six plus two group in Tashkent from 17 to 21 July 1999 with the participation of representatives of both parties to the conflict was welcomed by the members of the Security Council as an important step towards seeking a political settlement to the Afghan problem. The declaration signed by the participants at the

Tashkent meeting included the commitment not to provide military support to any conflicting Afghan sides.

24. Notwithstanding those commitments, a large-scale military offensive was launched by the Taliban on 27 July 1999 across the Shamali plains. Specially disquieting were reports that the forces which engaged in the offensive included non-Afghans of different nationalities and that the commitment not to provide military support was not respected as significant logistical support and supplies were being delivered to those forces which enabled the Taliban to carry out a large-scale offensive with successive rounds of aerial bombardment.

25. This offensive resulted in massive displacement of the civilian population, in particular women and children, from the Shamali plains. The Northern Alliance claimed that some 250,000 civilians had fled from the Shamali plains and that the bulk of them had sought refuge in the Panjshir valley. Other estimates ranged from 100,000 to 150,000 of whom a substantial number (over 50,000) are reported to have been moved by the Taliban forces to Jalalabad and Kabul. According to a Taliban spokesman, Mullah Amir Khan Mutaqqi, some 1,800 families had been transported to Jalalabad (Sar Shahi camp) and a similar number were brought to Kabul where special places were to be allocated to them; such movements were justified by stating that this was being done for their own security because "the opposition had used civilians and their homes as human shields". There is thus incontrovertible evidence of involuntary displacement of large numbers of civilians, specially women and children. There are reports that dozens of trucks were seen, filled only with women and children separated from the male members of the family. There also does not appear to be a prospect of their early return, as there are reports that many of their homes have been destroyed and fruit-bearing trees have been cut down. Access to the area was not possible for personal verification which would be attempted as soon as circumstances permit. The Special Rapporteur addressed an appeal to the Taliban authorities on 4 August 1999 and to the Northern Alliance on 5 August 1999 pointing out the dangers to which the resumed conflict was exposing civilians and urging that violations of humanitarian law should be avoided. The text of those letters is contained in appendix II to the present report.

26. Widespread first-hand reports indicated that there were house and crop burnings, forced deportations, family separations, the separation and deportation of women, and arbitrary killing in southern Shamali. House burnings were reportedly worst in Istalif, Farza, Kalakan and Guldara with lesser levels in Qarabagh and parts of Bagram district. Two specific instances of killings of groups of men were reported, one of which involved groups of 12, 9 and 13 being killed and the other which involved groups of 23 and 15. These took place in the Bagram area and involved male civilians. The reports of systematic destruction of property and agriculture by the Taliban forces in the Shamali plains were denied by officials in Kabul who suggested that a protective strip 200 metres on either side of the main road was being cleared. This was not, however, borne out by independent reports which noted that homes and villages far from any main road had also been destroyed.

27. Wide variation existed in terms of material possessions and assets, livestock and food resources levels amongst the population of internally displaced persons (IDPs). IDPs from southern Shamali have, generally speaking, much less in all respects than those from other areas as they fled either as the Taliban took their areas or immediately after, and consequently most fled essentially empty handed. In addition, they have generally been unable to return due to the ongoing conflict. Those from northern areas are in a more advantageous position having had more forewarning of the initial Taliban advance, less distance to travel to the Panjshir, the ability to return to collect possessions (at times collectively) and, importantly, closer links and connections with the present host population. The data collected from the general population indicated that between 50 and 75 per cent of IDPs had no food supplies; 25-50 per cent had food supplies for at least one week; 24-33 per cent had food supplies for at least two weeks; and 12-15 per cent had food supplies for up to three weeks. None had food supplies for longer periods. Additionally, around 20 per cent of the population had lost sheep, goats, cattle or donkeys.

28. The IDPs who arrived first quickly overwhelmed public buildings or, in the case of those with connections or relatives in the Panjshir valley — who were more likely to be from northern Shamali — found shelter with them. Those arriving later, without links to the valley and once public buildings had become full, were compelled to erect makeshift outdoor shelters. Of this population, many subsequently either found accommodation amongst the local population or moved on — the reduction of the IDP population living outdoors was remarked on by many witnesses. The health situation was very typical of IDP/refugee situations with problems of communicable diseases, specifically acute diarrhoea and an outbreak of cholera.

29. Priority needs amongst the IDP population were:

(a) Shelter materials for the 20 per cent of the population presently living outside. It is assumed that a large proportion of these will remain in the valley;

(b) Food for at least half of the population immediately and potentially for all and longer-term assistance for IDPs unable to return;

(c) Blankets.

30. In the course of the conflict, there were reports that the Northern Alliance had been firing rockets from behind the front lines about 25 km from Kabul at the end of July. Some 10 rockets are reported to have landed around Kabul airport on 29 July 1999. At least five civilians, including a 14-year-old girl, are reported to have been wounded.

31. Both sides have been resorting to the laying of anti-personnel and anti-tank mines resulting in injuries to civilians. There are also a number of reports of repeated aerial bombardment by the Taliban forces including bombardment of civilians in the Shamali plains. This is a matter which also requires in-depth investigation since such bombardment of civilians is a flagrant breach of international humanitarian law. Grave breaches of international humanitarian law could render those responsible to international criminal liability. It is in this context that a statement by the Secretary-General on 6 August 1999 to the press should serve as a warning. In dealing with a situation where belligerents were cynically trying to exploit the United Nations by forcing civilians to flee their homes and then asking for humanitarian aid, he stated: "The parties responsible for such disasters cannot, cynically, commit such criminal acts, then turn to the United Nations and the international community as a whole to help save their own people from disasters provoked by those who claim to be the country's leaders."

IV. Visit by the Special Rapporteur to Kabul (September 1999)

32. The Special Rapporteur, together with the Special Rapporteur on violence against women, Ms. Radhika Coomaraswamy, visited Kabul from 9 to 12 September 1999 and met representatives of the Taliban authorities, a cross-section of local inhabitants, members of the press, humanitarian agencies and non-governmental organizations. The Special Rapporteur visited the village of Dashtak in the Charasiab district of Logar province where 50 families had returned to start a new life after more than 20 years in refugee camps in Pakistan. The Taliban authorities also arranged for visits to the Rabia Balkhi hospital, a rural health project for women, a primary school for girls, as well as to a camp for internally displaced persons.

33. In meetings with the representatives of the Taliban authorities, concerns were expressed that after the last visit of the Special Rapporteur when, following the Ashkabad talks, there was an indication that a second round of talks would take place to explore the basis for a political settlement involving a shared Government, not only had such talks not taken place but there was a resumption of conflict in April and May 1999 in the central highlands, including Bamyan.

34. The Tashkent meeting of the six plus two group (17-21 July 1999), with the participation of the Special Envoy of the Secretary-General, adopted the Tashkent Declaration on Fundamental Principles for a Peaceful Settlement of the Conflict in Afghanistan in which it recorded the following, among other conclusions:

> "1. We are convinced that there is no military solution to the Afghan conflict, which must be settled through peaceful political negotiation in order to establish a broad-based, multi-ethnic and fully representative Government.
>
> "2. Accordingly, we urge the Afghan parties to resume political negotiations aimed at achieving these goals.
>
> "3. In order to help bring about a cessation of hostilities, which we consider essential, we have further agreed not to provide military support to any Afghan party and to prevent the use of our territories for such purposes. We call upon the international community to take identical measures to prevent delivery of weapons to Afghanistan.
>
> "...
>
> "9. We are fully determined to make every effort to encourage the Afghan parties to respect fully the basic human rights and fundamental freedoms of all Afghans in accordance with the basic norms of international law.
>
> "...
>
> "12. We call upon the international community to support these proposals and take coordinated steps to bring about a speedy settlement of the conflict in Afghanistan and also call upon all forces in Afghanistan to demonstrate political will and wisdom, overcome their differences and mutual hostility and not miss an historic opportunity to achieve stable and long-lasting peace."

35. In the discussions with the Taliban authorities, the Special Rapporteur covered two broad areas bearing on human rights:

(a) The imperative of pursuing the basic goal of ending the externally supported military conflict and establishing through peaceful political negotiations a broad-based, multi-ethnic and fully representative Government;

(b) The need to demonstrate measurable progress in complying with international human rights norms in different spheres, in particular with regard to the rights of women and girls in the areas of access to education, access to health and access to employment, and also the adoption of measures to prevent human rights abuses such as deliberate and arbitrary killing, abduction, torture, infliction of inhuman and degrading punishment and breaches of humanitarian law.

These issues are considered in separate sections below.

A. The basic framework for the respect of human rights

36. The Taliban authorities repeatedly raised the issue of recognition and urged that recognition be extended to them as, in their view, they had most of the territory under their control and they had substantially restored law and order. In their own words, they make their claim for recognition as follows:

> "Amirul Mominin is the Leader of the Islamic Emirate of Afghanistan (IEA) and Mull Mohammed Rabbani is the President [of the] Council of the IEA.
>
> The IEA has control of 97 per cent [of the territory] with the capital.
>
> The IEA has the central Government and control of its provinces.
>
> In every province there is a lower court and a high court. And the Supreme Court is in the capital.
>
> The Taliban are sons of the holy land of Afghanistan; [most] leaders of the movement are from the former different groups.
>
> The People of Afghanistan gave to these warring factions four years' time and there were many accords but they were not fulfilled. There were destruction, killings, looting, raping and robbery during the (rule of) Rabbani and the other factions throughout the country.
>
> There was no peace and security. The IEA in a very short time got control throughout the country. The IEA brought peace, security and integrity to the country. The IEA collected weapons from the different commanders and individuals. Actually, Afghanistan was divided into different governments; according to the reports of human rights there were 16 governments and there was no [central] control of the provinces and Kabul. The IEA brought unity and integrity and has control of the central [Government] and its provinces. According to the report of the United Nations, there was no law and order in the country. The IEA implemented law and order which was the desire of the people of Afghanistan. There is a broad-based Government in Afghanistan which has a representative from every ethnic group and province."

37. Another Taliban representative with whom issues of law and justice were discussed mentioned that a constitution was in preparation but that no draft was yet available for public discussion or for an expression of opinion on its provisions. It was being prepared by certain *ulema* (religious scholars) but there was no process of public discussion or consultations. When it was pointed out that in the past constitutions had been placed before a *loya jirga* (national assembly) consisting of both elected and nominated persons, it was agreed that this had indeed been the case. When asked to clarify how it was intended to obtain approval of the representatives of the people and how such representatives would be elected, it was indicated that the matter had not yet been addressed.

38. Yet another Taliban representative with whom educational issues were to be reviewed reverted to the question of recognition stating that, as the Taliban understood it, the United Nations attached importance to three matters: (a) elimination of narcotic drugs; (b) dealing with Osama bin Laden; (c) education of women and girls. It was stated that if recognition was accorded, the Taliban authorities would be able to satisfy the United Nations with regard to each of these matters. This revealed that while there was great importance attached to securing recognition from the international community, there was clearly inadequate understanding of what was meant by a broad-based, fully representative Government which could reasonably expect to secure recognition.

39. The Special Rapporteur explained that a broad-based, multi-ethnic, representative Government that could legitimately seek and expect recognition would be one which would have to be constituted in accordance with internationally recognized human rights norms embodied in the International Covenant on Civil and Political Rights, to which Afghanistan was a party. The presence among the Taliban leadership of persons of different ethnic groups or

previously warring factions did not satisfy the requirement of the Covenant since to represent any group or area, there would have to be a procedure in conformity with the Covenant by which such representatives would have to be elected. If, indeed, a constitution was being prepared, such a constitution must be accepted by representatives of all segments of the Afghan population, such representatives to be elected according to procedures which were in conformity with the Covenant. The procedures could be agreed through a process of peaceful political negotiations.

40. The impression that recognition was somehow related to the three points identified above was clearly not correct. Although these are matters which have a bearing on human rights and raise issues which are relevant to evaluating the overall human rights situation, it should be clarified that they should not be looked upon as matters determinant by themselves of recognition.

41. The Taliban authorities base their claim to recognition on their physical control of the bulk of the territory of Afghanistan. They do not appreciate, however, that consent of the population to such control is an indispensable requirement of the Covenant. The present structure of control cannot claim to be based on the consent of all segments of the Afghan population. This is why the aim of engaging in negotiations through which a broad-based representative Government is established is placed at the top of the agenda. It is not enough for the Taliban authorities to point to the presence of a Hazara, a Tajik or an Uzbek in their leadership hierarchy or at different levels in the existing establishment to satisfy the requirements of the Covenant. The exercise of control by armed groups over recaptured areas like Hazarajat and Mazar-i-Sharif, the situation in Herat and the Shamali show that repressive measures are being resorted to since the consent of the population is absent. Such control is akin to armed occupation and not the exercise of authority such as characterizes a legitimate broad-based representative Government which is contemplated by the Covenant.

42. The review of the human rights situation for the Afghanistan Support Group meeting (21-22 June 1999) recognized that the people of Afghanistan, whatever their socio-economic status, occupation, background or political perspective, point almost invariably to the war and its devastating legacy as the most significant factor in what can only be described as an abysmal human rights situation.

43. The indirect cost of the war on the human rights situation continues to mount. The food security situation in the central highlands of Hazarajat, for example, continues to be precarious. Begging, preceded by the sale of essential household possessions, is on the increase in many urban centres. The most destitute tend to be part of families that have broken apart or have lost several wage-earning family members. Those who are most at risk are part of female-headed households in urban areas.

44. The debilitating human development indicators set out below must constantly be kept in view:

One quarter of all children die before they reach the age of five;

Life expectancy rates are estimated at 44 years for women and 43 for men;

Maternal mortality rates are the second highest in the world;

Safe water reaches only 12 per cent of the population;

Health services reach only 29 per cent of the total population, but only 17 per cent of the rural population;

Literacy rates are estimated at 30 per cent, but only 13 per cent for females;

Unemployment rates continue to remain high both in urban and rural areas;

The total destruction of a normal economy has given way to a criminal economy based on drugs and smuggling. According to the 1998 poppy survey conducted by the United Nations International Drug Control Programme in Afghanistan 63,500 hectares of opium poppy were under cultivation with the potential to produce 3,200 metric tons of raw opium. Consequently, Afghanistan is today the world's largest opium-producing country, and all signs are that production is continuing to rise. The eradication efforts undertaken by the Taliban authorities may be noted in this context. In March 1999, 34 processing laboratories in Nangarhar province are reported to have been dismantled (with a commitment to take measures to close laboratories in Helmand and Kandahar) and some 400 hectares of opium poppy cultivation were eradicated in the Ghorak, Khakrez and Maiwand districts in Kandahar province, the equivalent of 24 metric tons of raw opium.

45. While aiming for measurable progress in specific areas with a view to improving the indicators set out above, it is important to underscore the need for an overall change of the basic framework and the need for the establishment of a broad-based, multi-ethnic representative Government which would respect internationally recognized human rights and eschew the adoption of policies inconsistent with the requirements of the international human rights instruments to which Afghanistan is a party and the imposition of ideological positions which are not based on consensus

among the Afghans on the interpretation of Islamic texts or on tribal codes and norms of conduct.

B. Measurable progress with regard to specific areas of human rights

1. Rights of women and girls

46. In July 1999 the Secretary-General submitted a report to the Subcommission on the Promotion and Protection of Human Rights on the situation of human rights of women and girls in Afghanistan (E/CN.4/Sub.2/1999/13). While noting that Afghanistan is a party to a number of international human rights instruments such as the Convention on the Elimination of All Forms of Discrimination against Women, as well as to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child, the report noted that women are unable to enjoy the most basic rights such as the right to all levels and types of education, employment outside the home, health care, personal security and freedom of movement unless accompanied by a close male relative.

47. Human rights abuses of women have been systematic during the 20 years of conflict during which women have been killed, raped by members of the various warring factions, displaced and forced to flee the country.

48. Although the Taliban have established a degree of security in areas under their control, restrictions amounting to discrimination were imposed on women and girls in those areas through their policies which are communicated by edicts and enforced mainly by the Ministry for the Prevention of Vice and the Promotion of Virtue. The edicts have been enforced with varying degrees of rigour throughout the country and have been felt most profoundly in urban areas where women used to have greater access to health facilities, employment opportunities and education. It is reported that certain restrictions concerning women have been enforced through the use of cruel, inhuman and degrading punishment and ill-treatment, including beating by Taliban guards in public places. It is estimated that 75 per cent of the population of Afghanistan lives in rural areas where confrontation with Taliban values on this question is said to be less serious.

49. Violations of human rights of women are not limited to areas controlled by the Taliban movement. Little information is available about the situation of women in areas controlled by the Northern Alliance (United Front). It would appear, however, that women there are at risk of being raped by armed groups.

50. In addition to the continuing war and policies directed towards the removal of women from public life, the situation of women in Afghanistan is also affected by poverty, low literacy rates, traditional customs, lack of appreciation of their health needs and lack of adequate numbers of female health-care personnel. As regards health, women of childbearing age constitute the most vulnerable group.

51. The Special Rapporteur on violence against women visited Afghanistan in September 1999. She will be presenting a separate detailed report in due course. She was informed that only primary education was available to girls aged 5 to 10 and was dispensed under the aegis of the Taliban Ministry of Religious Affairs. She was informed that there was no plan yet for further education. She visited a girls' primary school housed in a mosque in Kabul. Representatives of the Taliban authorities indicated that female attendance in educational institutions was conditional on segregation.

52. School attendance of girls in central and southern parts of Afghanistan, in particular in rural areas, has always been low. The Taliban authorities have allowed support of home-based schools for girls. Schooling for both boys and girls has been affected considerably by the destruction of the educational infrastructure as a result of the protracted armed conflict.

53. With regard to employment, Afghan women are currently allowed to work in the medical sector, as doctors and nurses. A restricted number of Afghan women are allowed to be employed in agencies headed by women. Afghan women employed by international agencies are not allowed to come to their offices but go directly from their homes to the project sites on which they work. Growing destitution is evident among a growing proportion of urban families, with a consequent increase in public begging. The Taliban authorities issued an edict in 1999 allowing needy widows with no other means of support to seek employment.

54. With regard to health, the Special Rapporteur on violence against women was informed that a number of hospitals in Kabul admitted women. She visited the Rabia Balkhi women's hospital in Kabul which provides the full range of health services to women. There is only one maternity hospital in the whole country.

2. Breaches of humanitarian law

55. Grave breaches of humanitarian law have occurred in the course of the recently resumed conflict, which continues. The Secretary-General noted the alarming reports of massive forced displacements in his statement of 6 August 1999. He further stated that the United Nations was doing its best to identify those responsible for the massive violations of human rights. Detailed inquiries into such breaches of humanitarian law and identifying those responsible is an important task to be undertaken as soon as access to the areas of conflict becomes possible, in order to prevent future breaches. Those responsible should be warned of the criminal liability that they are incurring by persistent breaches of international humanitarian law. The other violations include: aerial bombardment, laying of mines, summary executions, destruction of homes and sources of livelihood, and abduction of and violence against women.

56. An aspect of the recently resumed conflict to which attention needs to be drawn is the reportedly widespread deployment of non-Afghan-national combatants, many from neighbouring countries, who have demonstrated a propensity for committing atrocities against civilians which, in some cases, are reported to have been criticized by the Taliban.

V. Concluding observations

57. In the wake of resumed fighting resulting in grave breaches of international humanitarian law and gross violations of human rights, the statement by the President of the Security Council on 5 August 1999 reflected the sense of urgency about the need for an immediate cessation of the armed conflict and the resumption of political negotiations under the auspices of the United Nations in line with the commitments expressed at the meeting of the six plus two group in Tashkent in July 1999. The Secretary-General's Special Envoy had earlier recalled that the international community expected Afghanistan's neighbours to stop sending arms and *matériel* into the country and further urged regional neighbours to support peace rather than war in Afghanistan. A recent survey conducted in connection with the fiftieth anniversary of the Geneva Conventions of 12 August 1999 recorded that all sections of the people of Afghanistan were war-weary and yearned for peace.

58. The peace process should be revived at the earliest with an agenda which would underscore the need for an agreement on the basis of which a broad-based, multi-ethnic representative Government acceptable to all segments of the Afghan population, including the 3-4 million refugees living outside Afghanistan, should be established. The Taliban authorities, who appear to be engaged in preparing a draft constitution, should appreciate that such a draft must be circulated among all segments of the population and can only acquire legitimacy if it is approved by properly elected representatives of all of the Afghan people. Such a Government, it is expected, would as a high priority adopt measures to comply with the international obligations of Afghanistan under the international human rights instruments to which it is a party. Current practices and edicts which are found to be inconsistent with those obligations would need to be replaced by laws and practices which would demonstrate compliance with the international human rights instruments.

59. While the above basic changes are in the process of being agreed and implemented through procedures to be settled through peaceful political negotiations, a human rights-based programme of humanitarian assistance should be given the highest priority in order to meet the basic needs essential for survival and the right to life. The approach to human rights in Afghanistan must thus be shaped by the objective of addressing immediate life-saving and life-sustaining needs while simultaneously pursuing measures focused on strategic long-term objectives, namely bringing about conditions essential for the enjoyment and protection of human rights.

60. In developing and implementing such a programme of humanitarian assistance, the following principles should be kept in view:

1. Life-sustaining humanitarian assistance shall be provided in accordance with the principles of humanity, universality, impartiality, and neutrality.

2. Assistance shall be provided as part of an overall effort to achieve peace.

3. International assistance will be provided on the basis of need; it cannot be subjected to any form of discrimination, including on the basis of gender.

4. Rehabilitation and development assistance shall be provided only where it can reasonably be determined that no direct political or military advantage will accrue to the warring parties in Afghanistan.

5. Institution- and capacity-building activities must advance human rights and will not seek to provide support to any presumptive State authority which does not fully subscribe to the

principles contained in the founding instruments of the United Nations, the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and international humanitarian law.

6. Assistance activities must be designed to ensure increasing indigenous ownership at the village, community and national levels and to build the country as a whole.

7. Assistance activities must attain high standards of transparency and accountability and must be appraised, monitored, measured and evaluated against clear policy and programmatic objectives.

Annex

Correspondence between the Special Rapporteur, the Taliban leadership and the leadership of the Northern Alliance

A. Aide-mémoire dated 23 May 1999 from the Special Rapporteur addressed to the Taliban leadership

The Special Rapporteur of the United Nations Commission on Human Rights presents his compliments and would wish to place before the Taliban leadership some urgent concerns arising out of the events in Bamyan province extending from January 1999 to present. Violations of human rights, which have been reported to me by credible eye witnesses, have included:

- Forced displacement of the civilian population.
- Deliberate burning of houses.
- Summary executions of non-combatants, including women, children and men of non-fighting age.
- Arbitrary detentions, both from Bamyan province and from other areas, including detention of civilians in transit to other locations in Afghanistan.
- Use of forced labour.

All of these practices would constitute grave human rights violations.

These violations are reported to have occurred in, among others, the following places: Village Khowol, Village Gorwon, Village Kakrak, Village Sarasiab, and Village Mynaka (Central Bamyan) and Kalu Valley, Village Hajigak (Uluswali Shibar).

These actions, carried out by Taliban forces, engaged in military operations on behalf of the Islamic Emirate, run directly counter to assurances publicly given by the Taliban leadership with regard to the rights of the civilian population. Some of the Taliban field commanders have been specifically named in reports of these violations, including, for example, Commander Abdul Wahid Ghorbandi.

The following specific actions are urged, to prevent further violations and to protect and reassure the civilian population affected:

1. To issue instructions to local Taliban commanders to refrain from further violations of the rights of civilians, specifically to cease summary executions, targeting of non-combatants, violence against women and children, arbitrary detention and destruction or confiscation of property.
2. Urgently to release civilians who have been arbitrarily detained, or held in forced labour camps.
3. Investigate violations committed by all parties to the conflict and prosecute those guilty of these violations.
4. Facilitate access, for the Special Rapporteur and United Nations associated personnel, to the areas concerned in Bamyan province and neighbouring areas, to assess the human rights situation and take whatever measures possible to help remedy the situation.
5. Assure freedom of movement within the country and protection from harassment for civilians, including returnees and the displaced, irrespective of place of origin or ethnicity.
6. Guarantee full, unfettered access, for humanitarian agencies, to respond to the significant humanitarian needs in the area that have arisen as a result of the conflict. This humanitarian intervention should include facilitating the return of people displaced in the conflict.

Urgent action is required, to prevent further violations of human rights. Any failure to take prompt remedial action would impede progress towards national reconciliation and peace, which undoubtedly is a shared aspiration of all Afghan people.

B. Letter dated 8 June 1999 from Maulvi Wakil Ahmad Mutawakil, spokesman and adviser to the leadership of the Islamic Emirate of Afghanistan, addressed to the Special Rapporteur

I am pleased to present my best wishes to you.

[Having] Received your letter, I believe that your visit to Afghanistan personally really has importance. Previously, people did not believe the reports written on human rights because they were all one-sided, not based on fact and were made [up] of the [rumours] by the opposition. Contacting both sides regarding this issue at least will increase the interest of both sides, facts and realities could be understood

and the [rumours] and estimations will be replaced with the exact and correct information.

Basically in Afghanistan war and instability had reached the stage that not only the basic rights of the people but the life of the people were put into danger. But with the help of the Islamic Movement of Taliban, (...) humanity prevails and maintains the social and lawful rights of the people.

The barbarism and black period of the communists and their remainder did such savage behaviour that the history of humanity is ashamed of its reminding. The main cause [of] these actions was those who had [an] active role in the north alliance and by misusing the Taliban name did unforgotten crimes to the Afghans.

An example [is] the massacre of thousands of harmless prisoners, killing them in an unmerciful way and pushing them [into] wells. In order to hide this they have always tried to accuse the Islamic Emirate by providing false and wrong information.

The great crime of the opposition is that they are providing wrong and full of prejudice information to the people in their region in order to use/keep them in their war lines for the strengthening of their power. For example, when they captured Bamyan for a few days, besides killing they burned down the houses of those people who supported the Taliban Movement although they were Hazar ethnically. And when Bamyan was recaptured these people in revenge started doing the same; that was why a special decree of Amir ul Momineen was issued to avoid such actions.

It is to state that those people who had gone under the influence of the propaganda made by the opposition had climbed [into] the mountains, as they were frightened. They even had lost members of their family, and especially children, in those mountains because of the cold weather, which really made us sad.

Anyhow, we from our side give you the assurance of our practical attention to the best of our ability.

C. Letter dated 10 June 1999 from the Special Rapporteur addressed to Mawlavi Wakeel Ahmed, Special Adviser to the Supreme Leader of the Taliban Movement

I wish to express my appreciation for your timely response to my letter to you dated 28 May concerning alleged violations of human rights in Hazarajat.

You will recall that during our discussion on 23 May, when I gave you an aide-mémoire, I expressed to you the urgency of the Islamic Emirate taking appropriate measures to immediately end gross and systematic violations of human rights. In this connection, we discussed the importance of the Islamic Emirate immediately issuing instructions to local Taliban commanders [concerning] summary executions and arbitrary detentions. I made specific reference to the case of Dr. Ayub, Medical Director of the Shuhada Organization Hospital in Jahoray and stressed the urgency of securing his release as this would give an important signal to the population and would help lower tensions.

I regret that none of these issues have been addressed in your communication of 8 June. I am also disappointed to note that your letter to me makes no reference to the authorities of the Islamic Emirate having undertaken an investigation of events in Hazarajat in recent months. As discussed with you in Kandahar, an investigation which establishes the facts is an essential step in addressing recent events and their ramifications for peace and justice in Afghanistan.

I am convinced that an independent and neutral review of recent events by the United Nations will make a positive contribution to the goal of peace in Afghanistan. Such an investigation will also help ensure that rumours and uninformed opinion do not add to further instability in the area. I thus wish to reiterate my interest in visiting the Central Highlands.

I am travelling, in a few days, to New York where I expect to meet with the Secretary-General and other senior United Nations officials. I would thus appreciate hearing from you as quickly as possible so that I can review with colleagues in New York appropriate steps which should be taken to address the human rights situation in Afghanistan.

D. Letter dated 12 July 1999 from the Special Rapporteur addressed to Mawlavi Wakeel Ahmed, Special Adviser to the Supreme Leader of the Taliban Movement

With reference to my letter to you of 10 June, a copy of which is enclosed herewith, I am concerned that I have not yet received a response.

You will recall that during our meeting on 23 May, and in my aide-mémoire, I emphasized the urgency of the Islamic Emirate taking appropriate action to address the grave human rights situation in the Central Highlands.

I explained that I had spoken directly to Bamyan residents who reported serious abuses committed during the conflict including summary executions, arbitrary arrests and disappearances. I also explained that I was in possession of a list of 119 people, who were allegedly arrested by Taliban forces in Bamyan and who were missing (at the time of my visit). The majority of these people (102 persons) were alleged to be held in a prison-cum-labour camp in Siagird. Others (17) were believed to be held elsewhere, such as in Kabul.

I raised the specific case of Dr. Ayub. He is the Medical Director of a Taliban-recognized Afghan NGO, the Shuhada Organization, and is responsible for the hospital in Jaghoray district. He was reportedly abducted in April and has been held incommunicado since then.

I urged the Islamic Emirate to conduct its own inquiry into these events, to respond to the specific abuses which I had documented, and to issue clear instructions to avoid a repetition of these abuses against civilians.

I have duly noted and appreciated the Special Decree of the Amir ul Momineen against house burning as outlined in your letter of 8 June. However I regret that I have not had a response from the Islamic Emirate to the many other issues of abuse which I have documented. I am sure that you understand the importance of ensuring that the local population is confident that it will not face human rights abuses in future, without which peace and normality cannot return to Bamyan and surrounding areas.

I request you to let me know what specific measures have been taken to reassure the residents of Bamyan including:

(a) Measures taken for the release of civilians arrested during the Bamyan conflict;

(b) Measures taken to close the prison/labour camp in Siagird;

(c) Measures taken to secure the release of Dr. Ayub;

(d) Measures taken to establish the facts about the extent of, and responsibility for, human rights abuses during the Bamyan conflict.

I wish to reaffirm that I am still very much interested in an independent inquiry (including an opportunity to visit Bamyan and surrounding areas) to better assess the human rights situation there and to review additional measures which can be taken to strengthen and safeguard the rights of the people in the area.

E. Letter dated 14 August 1999 from the Special Rapporteur to Mawlavi Wakeel Ahmed, Special Adviser to the Supreme Leader of the Taliban Movement

During our meeting in Kandahar on 23 May 1999 we reviewed a number of issues in connection with reported violations of human rights during the months of March and April in the Central Highlands. I have written to you on a number of occasions since our meeting; letters of 28 May, 10 June, 12 July and 4 August refer. It is extremely troubling that I have still not received information to the effect that the Islamic Emirate has taken substantive action (a) to address specific problems that I reviewed with you and (b) to safeguard against the violation of human rights. [As I stated] When we met, and as outlined in my aide-mémoire and in subsequent correspondence, it is deeply disturbing that Dr. Ayub, who was working with Shuhada in a project approved by the Taliban authorities, was reportedly abducted from his clinic and is still held in detention. This is just one of the many concerns I have about events in the Central Highlands earlier this year.

I discussed with you in Kandahar my desire to visit Bamyan so that I could review with authorities on the ground specific measures that would help ameliorate the situation and facilitate better relations between the population and the authorities.

In a letter to Mullah Omar on 23 July 1999 I advised him of my plans to visit Afghanistan in early September. I am writing to you now to reconfirm my interest in visiting Bamyan. I am convinced that such a visit would help reassure the people of the Central Highlands that their human rights are no less important than those of other communities in Afghanistan.

Given the importance of making appropriate arrangements as quickly as possible I would appreciate hearing from you at your earliest convenience. You can contact me by fax at the following number in Geneva: (00 41 22) 917-9014.

F. Letter dated 4 August 1999 from the Special Rapporteur addressed to Mawlavi Wakeel Ahmed, Special Adviser to the Supreme Leader of the Taliban Movement

I wrote to you on 12 July expressing concern that I had not received a substantive response to earlier correspondence

following my meeting with you in Kandahar on 23 May. At that meeting, I discussed with you well-documented reports, and first-hand information I had received, about violence against civilians during the conflict which had occurred in the Central Highlands a short time previously. I was and am deeply concerned about reports of summary executions, arbitrary arrests, disappearances and the destruction of civilian property essential for survival.

In earlier correspondence I noted with satisfaction that a Special Decree was issued by the Amir ul Momineen against house burning and the positive signal this sends to civilians fearful for their lives. However, I regret that I have received no further communication from you nor information that the Islamic Emirate has taken measures which would safeguard against further violations including the deliberate harming of civilians.

I am very troubled that I have not yet heard from the Islamic Emirate about the serious human rights violations and proposed action outlined in earlier correspondence (letters of 28 May, 10 June and 12 July refer). The absence of appropriate action in relation to events in Hazarajat are all the more troubling given reports of the most recent escalation in the fighting.

I am extremely concerned about reports I have received of the offensive now under way and the inherent danger this represents for civilians caught in the war zone. Alarming reports of casualties are already being reported as well as civilians fleeing to escape the fighting. As noted in one news report the people of Afghanistan are war-weary and are all too aware that they have more than their share of war-wounded, orphans, widows and disabled.

I shall be writing separately to representatives of the Northern Alliance so that they are also aware of my concerns and take measure to avoid the types of violations that have characterized past offensives. I appeal to you and others in positions of authority and responsibility to take all necessary measures to safeguard the life and well-being of civilians and to pursue a resolution of this conflict by peaceful means.

G. Letter dated 5 August 1999 from the Special Rapporteur addressed to Mr. Burhanuddin Rabbani, President of the Islamic State of Afghanistan

I am writing to you in connection with human rights concerns occasioned by the most recent escalation in the fighting in Afghanistan. Among them is evidence of rocketing of Kabul and reports of extensive use of landmines along the front line.

I am extremely concerned about reports I have received of the offensive now under way and the inherent danger this represents for civilians caught in the war zone. Alarming reports of casualties are already being reported as well as civilians fleeing to escape the fighting. As noted in one news report I read today, the people of Afghanistan are war-weary and are all too aware that they have more than their share of war-wounded, orphans, widows and disabled.

I shall be writing separately to representatives of the Taliban Movement so that they are also aware of my concerns and take measures to avoid the types of violations that have characterized past offensives. I appeal to you and others in positions of authority and responsibility to take all necessary measures to safeguard the life and well-being of civilians and to pursue a resolution of this conflict by peaceful means.